

**Subpart C—Justices and Judges**

**§ 1620.20 Scope.**

(a) This subpart applies to:

(1) A justice or judge of the United States as defined in 28 U.S.C. 451;

(2) A bankruptcy judge appointed under 28 U.S.C. 152 or a United States magistrate judge appointed under 28 U.S.C. 631 who has chosen to receive a judges' annuity described at 28 U.S.C. 377 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, Public Law 100–659, 102 Stat. 3910–3921;

(3) A judge of the United States Court of Federal Claims appointed under 28 U.S.C. 171 whose retirement is covered by 28 U.S.C. 178; and

(4) A judge of the Court of Veterans Appeals appointed under 38 U.S.C. 7253.

(b) This subpart does not apply to a bankruptcy judge or a United States magistrate judge who has not chosen a judges' annuity, or to a judge of the United States Court of Federal Claims who is not covered by 28 U.S.C. 178. Those individuals may participate in the TSP only if they are otherwise covered by CSRS or FERS.

[64 FR 31057, June 9, 1999, as amended at 70 FR 32213, June 1, 2005]

**§ 1620.21 Contributions.**

(a) An individual covered under this subpart can make contributions to the TSP from basic pay in the amount described at 5 CFR 1600.22(a)(1). Unless stated otherwise in this subpart, he or she is covered by the same rules that apply to a CSRS participant in the TSP.

(b) The following amounts are not basic pay and no TSP contributions can be made from them:

(1) An annuity or salary received by a justice or judge of the United States (as defined in 28 U.S.C. 451) who is retired under 28 U.S.C. 371(a) or (b), or 372(a);

(2) Amounts received by a bankruptcy judge or a United States magistrate judge under a judges' annuity described at 28 U.S.C. 377;

(3) An annuity or salary received by a judge of the United States Court of Federal Claims under 28 U.S.C. 178; and

(4) Retired pay received by a judge of the United States Court of Veterans Appeals under 38 U.S.C. 7296.

[64 FR 31057, June 9, 1999, as amended at 70 FR 32213, June 1, 2005]

**§ 1620.22 Withdrawals.**

(a) *Post-employment withdrawal.* An individual covered under this subpart can make a post-employment withdrawal election described at 5 U.S.C. 8433(b):

(1) Upon separation from Government employment.

(2) In addition to the circumstance described in paragraph (a)(1) of this section, a post-employment withdrawal election can be made by:

(i) A justice or judge of the United States (as defined in 28 U.S.C. 451) who retires under 28 U.S.C. 317(a) or (b) or 372(a);

(ii) A bankruptcy judge or a United States magistrate judge receiving a judges' annuity under 28 U.S.C. 377;

(iii) A judge of the United States Court of Federal Claims receiving an annuity or salary under 28 U.S.C. 178; and

(iv) A judge of the United States Court of Veterans Appeals receiving retired pay under 38 U.S.C. 7296.

(b) *In-service withdrawals.* An individual covered under this subpart can request an in-service withdrawal described at 5 U.S.C. 8433(h) if he or she:

(1) Has not separated from Government employment; and

(2) Is not receiving retired pay as described in paragraph (a)(2) of this section.

[64 FR 31057, June 9, 1999, as amended at 70 FR 32213, June 1, 2005]

**§ 1620.23 Spousal rights.**

(a) The current spouse of a justice or judge of the United States (as defined in 28 U.S.C. 451), or of a Court of Veterans Appeals judge, possesses the rights described at 5 U.S.C. 8351(b)(5).

(b) A current or former spouse of a bankruptcy judge, a United States magistrate judge, or a judge of the United States Court of Federal Claims, possesses the rights described at 5

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U.S.C. 8435 and 8467 if the judge is covered under this subpart.

[64 FR 31057, June 9, 1999, as amended at 70 FR 32213, June 1, 2005]

### Subpart D—Nonappropriated Fund Employees

#### § 1620.30 Scope.

This subpart applies to any employee of a Nonappropriated Fund (NAF) instrumentality of the Department of Defense (DOD) or the U.S. Coast Guard who elects to be covered by CSRS or FERS and to any employee in a CSRS- or FERS-covered position who elects to be covered by a retirement plan established for employees of a NAF instrumentality pursuant to the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, Public Law 101-508, 104 Stat. 1388, 1388-335 to 1388-341, as amended (codified largely at 5 U.S.C. 8347(q) and 8461(n)).

#### § 1620.31 Definition.

As used in this subpart, *move* means moving from a position covered by CSRS or FERS to a NAF instrumentality of the DOD or Coast Guard, or *vice versa*, without a break in service of more than one year.

#### § 1620.32 Employees who move to a NAF instrumentality on or after August 10, 1996.

Any employee who moves from a CSRS- or FERS-covered position to a NAF instrumentality on or after August 10, 1996, and who elects to continue to be covered by CSRS or FERS, will be eligible to contribute to the TSP as determined in accordance with 5 CFR part 1600.

#### § 1620.33 [Reserved]

#### § 1620.34 Employees who move from a NAF instrumentality to a Federal Government agency.

(a) An employee of a NAF instrumentality who moves from a NAF instrumentality to a Federal Government agency and who elects to be covered by a NAF retirement system is not eligible to participate in the TSP. Any TSP contributions relating to a period for which an employee elects retroactive NAF retirement coverage must be re-

moved from the TSP as required by the regulations at 5 CFR part 1605.

(b) An employee of a NAF instrumentality who moves from a NAF instrumentality to a Federal Government agency and who elects to be covered by CSRS or FERS will become eligible to participate in the TSP as determined in accordance with 5 CFR part 1600.

#### § 1620.35 Loan payments.

NAF instrumentalities must deduct and transmit TSP loan payments for employees who elect to be covered by CSRS or FERS to the record keeper in accordance with 5 CFR part 1655 and Board procedures. Loan payments may not be deducted and transmitted for employees who elect to be covered by the NAF retirement system. Such employees will be considered to have separated from Government service and must prepay their loans or the TSP will declare the loan to be a taxable distribution.

#### § 1620.36 Transmission of information.

Any employee who moves to a NAF instrumentality must be reported by the losing Federal Government agency to the TSP record keeper as having transferred to a NAF instrumentality of the DOD or Coast Guard rather than as having separated from Government service. If the employee subsequently elects not to be covered by CSRS or FERS, the NAF instrumentality must submit an Employee Data Record to report the employee as having separated from Federal Government service as of the date of the move.

### Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

#### § 1620.40 Scope.

To be covered by this subpart, an employee must have:

(a) Separated from Federal civilian service or entered leave-without-pay status in order to perform military service; and

(b) Become eligible to seek reemployment or restoration to duty by virtue of a release from military service, discharge from hospitalization, or other